

Counsel Listed on Next Page

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FISHER INVESTMENTS, INC., a California
corporation,

Plaintiff,

v.

MORGAN STANLEY DW, INC., a
Delaware corporation, and DOES 1-10,
inclusive,

Defendants.

Case No. C 07 2547 SC

**STIPULATION AND [PROPOSED]
ORDER CONTINUING DUE DATE
OF DEFENDANT MORGAN
STANLEY & CO., INC.'S (F/K/A
MORGAN STANLEY DW, INC.)
RESPONSE TO PLAINTIFF'S
COMPLAINT AND CONTINUING
THE CASE MANAGEMENT
CONFERENCE**

LOCAL RULE 6-1(a)

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17 Fisher Investments, Inc.

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Attorneys for Defendant
Morgan Stanley & Co., Inc.
(f/k/a Morgan Stanley DW, Inc.)

1 Plaintiff Fisher Investments, Inc. ("Plaintiff" or "Fisher"), on the one hand, and Defendant
2 Morgan Stanley & Co., Inc. (f/k/a Morgan Stanley DW, Inc.) ("Defendant" or "Morgan
3 Stanley"), on the other hand, through their respective counsel, HEREBY STIPULATE and
4 AGREE pursuant to Local Rule 6-1(a) as follows:

5 1. The parties have been engaged in good faith settlement negotiations. The parties
6 have agreed to schedule a mediation with a private mediator, Judge William J. Cahill (Ret.), to
7 facilitate settlement negotiations in February 2008, which is the earliest mutually convenient date
8 available on Judge Cahill's calendar. The parties agree that it would be injurious to the settlement
9 process for the parties and counsel to have to devote substantial time and resources to address
10 litigation demands, including motion work related to the Complaint, attending case management
11 conferences, initial disclosures and other discovery demands. Accordingly, the parties agree to
12 extend the time for defendant to file a responsive pleading to the complaint until April 2008 and
13 to continue the Case Management Conference to a date after the mediation scheduled for
14 February 2008.

15 2. Plaintiff Fisher filed its Complaint in the Superior Court for the County of San
16 Mateo on April 12, 2007, and served it on April 13, 2007. Defendant Morgan Stanley removed
17 the complaint to federal court on May 14, 2007.

18 3. On May 16, 2007, the parties stipulated to extend the time for Morgan Stanley's
19 response to the Complaint from May 21, 2007 to June 5, 2007.

20 4. On June 1, 2007, the parties stipulated to extend the time for Morgan Stanley's
21 response to the Complaint from June 5, 2007 to June 20, 2007.

22 5. On June 18, 2007, the parties stipulated to extend the time for Morgan Stanley's
23 response to the Complaint from June 20, 2007 to July 5, 2007.

24 6. On June 28, 2007, the parties stipulated to extend the time for Morgan Stanley's
25 response to the Complaint from July 5, 2007 to August 6, 2007.

26 7. On July 31, 2007, the parties stipulated to extend the time for Morgan Stanley's
27 response to the Complaint from August 6, 2007 to September 20, 2007. Additionally, the parties
28 stipulated that the Case Management Conference scheduled for August 17, 2007 would be

1 continued until October 19, 2007. On its own, the Court rescheduled the initial Case
2 Management Conference until November 16, 2007.

3 8. The parties hereby stipulate and agree that Defendant's time to respond to
4 Plaintiff's Complaint shall be continued March 7, 2008 and the Case Management Conference
5 shall be continued from November 16, 2007 until April 18, 2008.

6 SO STIPULATED.

7 Dated: November 8, 2007

JOSEPH W. COTCHETT
NANCY L. FINEMAN
COTCHETT, PITRE & McCARTHY

9 SCOTT METZGER
10 ANNA F. ROPPO
DUCKOR SPRADLING METZGER & WYNNE

12 By: /s/ Scott Metzger
13 Scott Metzger
14 Attorneys for Plaintiff
Fisher Investments, Inc.

15 Dated: November 8, 2007

16 TRISH M. HIGGINS
17 MICHAEL D. WEIL
ORRICK, HERRINGTON & SUTCLIFFE LLP

18 By: /s/ Michael D. Weil
19 Michael D. Weil
20 Attorneys for Defendant
Morgan Stanley & Co., Inc.
(f/k/a Morgan Stanley DW, Inc.)

23 I hereby attest that the concurrence in the filing of this document has been obtained from
24 Scott Metzger, Attorney for Plaintiff, Fisher Investments, Inc.

1 By: /s/ Michael D. Weil
2 Michael D. Weil
3 Attorneys for Defendant
4 Morgan Stanley & Co., Inc.
(f/k/a Morgan Stanley DW, Inc.)

5 PURSUANT TO STIPULATION, IT IS SO ORDERED.

6 Dated: _____, 2007.

7
8
9 The Honorable Samuel Conti
United States District Court Judge